of fabricating false evidence he was never at any time prosecuted for any offence in connection with the matter.

It was the report based on this evidence that their Lordships of the Privy Council did not think it was correct to let the adjudicating officer have unless the petitioner also had it "so as to be able to correct or contradict the statements in it to his prejudice".

The objectors are asking this Court to go behind the finding of the Privy Council on the ground, they say, that it was based solely on a technicality. Had the decision in the *Kanda* case been based solely on the fact that the dismissing authority had no jurisdiction to dismiss then I would have agreed with them. It would then have been a matter of the conviction being correct but the sentence being carried out by the wrong executioner. But this finding was no technicality. It went to the root of the merits. If everything that had happened in the way it happened did not justify the proper dismissing authority from dismissing the petitioner from the police force because they had not properly proved their case, how can it be said that nevertheless on the same grounds for the same reasons I am now justified in dismissing this petition?

Petition granted.

LEE YOKE CHOONG v. PUBLIC PROSECUTOR

[A.Cr.J. (Ong J.) March 25, 1964]
[K.L. — Criminal Appeal No. 13 of 1964]

Penal Code, s. 506—Criminal intimidation—Intimidation to withdraw complaint—Threat of using acid—Sentence.

The offence of criminal intimidation lies in the intent behind a threat, not in its effect and the sentence must be one appropriate to the gravity of the offence so assessed.

CRIMINAL APPEAL.

A. A. Thomas for the appellant.

Gunn Chit Tuan (Deputy Public Prosecutor) for the respondent.

The facts of the case appear sufficiently from the judgment.

Ong J.: Lee Yoke Choong was convicted in the Sessions Court, Kuala Lumpur and sentenced to nine months' imprisonment on the following charge:

"That you on February 2, 1963 at about 4.30 p.m. at No. 448, Pudu Road, in the district of Kuala Lumpur, in the State of Selangor, committed criminal intimidation by threatening one Kok Joon Seng with injury to his person, to wit, by throwing acid into his face and make him blind, with intent to cause him alarm to the said Kok Joon Seng and thereby committed an offence punishable under section 506 of the Penal Code."

He originally gave notice of appeal against both the conviction and sentence but by his petition of appeal has withdrawn his appeal against conviction. The Public Prosecutor cross-appealed against the sentence on the ground of inadequacy.

The facts established in this case were as follows: On February 25, 1963 at about 9.30 a.m. the complainant's son was assaulted, while on his way home after delivering goods to customers, by persons practising the protection racket on tradesmen. A report made by the complainant led to the immediate arrest of two of the racketeers. Later in the afternoon of the same day Lee Yoke Choong, a complete stranger to the complainant, came to the latter's shop, invited him to a coffee-shop and there told him to go to the Police to withdraw his complaint against the persons arrested. Two alternatives were placed before him. If the case against them was withdrawn nothing would happen. Otherwise, "the gang had a lot of members in Selangor, Perak and elsewhere" and acid would be thrown on the complainant to blind him. As a result he did go to the Police "with a view to withdrawing the charge" and he did ask to be permitted to do so in order to avoid trouble. He went to the Police within an hour of the interview with Lee and reported the facts as set out above.

In mitigation of sentence it is said that Lee was a first offender, a married man with two infant children, the sole family bread-winner for his mother and brothers, that he himself did not threaten the complainant but was only a mediator, that the complainant was not in fact frightened and that Lee never threatened to carry out the threat personally. I consider all these grounds are beside the point. The offence of criminal intimidation lies in the intent behind a threat, not its effect.

On the other hand I entirely agree with the Public Prosecutor that the sentence is manifestly inadequate. The crime of extortion in various forms is rife. The criminals who control and direct lesser men in the hierarchy of crime remain safely in the background and are rarely caught. They employ youths as their tools who plead their age in mitigation to avoid a stiff prison sentence. When the underlings are caught the leaders come forward under the guise of "mediators" to pervert the course of justice and abort a prosecution even before it has started. They veil their threats with soft words, not threatening their victims directly but by merely warning them of unfortunate consequences in case they should contemplate being recalcitrant. The cap of a major culprit fits this convicted criminal Lee.

I accordingly dismiss his appeal and allow the cross-appeal by the Public Prosecutor. I set aside the sentence of the President and in its place I pass sentence of 3 years imprisonment because this person was making a serious attempt to paralyse the administration of criminal justice.

Appeal dismissed; cross-appeal allowed.